



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1832 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 15 – Buildings and Construction – Chapter 15.64, 'Development Impact Mitigation Fees,' by Repealing and Reenacting Section 15.64.040 Relating to the Timing of the Collection of Impact Fees During the Period July 1, 2010 Through June 30, 2013"

MEETING DATE: June 16, 2010

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1832.

BACKGROUND INFORMATION: Ordinance No. 1832 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 15 – Buildings and Construction – Chapter 15.64, 'Development Impact Mitigation Fees,' by Repealing and Reenacting Section 15.64.040 Relating to the Timing of the Collection of Impact Fees During the Period July 1, 2010 Through June 30, 2013," was introduced at the regular City Council meeting of June 2, 2010.


ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.


Randi Johl
City Clerk

RJ/jmr
Attachment

APPROVED: 
Konradt Bartlam, Interim City Manager

ORDINANCE NO. 1832

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING LODI MUNICIPAL CODE TITLE 15 – BUILDINGS AND
CONSTRUCTION – CHAPTER 15.64, “DEVELOPMENT IMPACT
MITIGATION FEES,” BY REPEALING AND REENACTING SECTION
15.64.040 RELATING TO THE TIMING OF THE COLLECTION OF IMPACT
FEES DURING THE PERIOD JULY 1, 2010 THROUGH JUNE 30, 2013

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 15 – Buildings and Construction – Chapter 15.64 is hereby amended by repealing and reenacting Section 15.64.040 and shall read as follows:

15.64.040 Payment of Fees [Inoperative July 1, 2010 – June 30, 2013].

- A. The property owner of any development project causing impacts to public facilities shall pay the appropriate development mitigation fee as provided in this chapter. The amount shall be calculated in accordance with this chapter and the program fee as established by council resolution.
- B. When such payment is required by this chapter, no building permit or site development permit shall be approved for property within the city unless the development impact mitigation fees for that property are paid or guaranteed as provided in this chapter.
- C. The fees shall be paid with the approval of a final subdivision map, building permit or site development permit, whichever occurs first except as provided in subsection (E) or (F) of this section.
- D. If a final subdivision map has been issued before the effective date of the ordinance codified in this chapter, then the fees shall be paid before the issuance of a building permit or grading permit, whichever comes first except as exempted under Section 15.64.110 of this chapter.
- E. Where the development project includes the installation of public improvements, the payment of fees established by this chapter may be deferred and shall be collected prior to acceptance of the public improvements by the city council. Payment of all deferred fees shall be guaranteed by the owner prior to deferral. Such guarantee shall consist of a surety bond, instrument of credit, cash, or other guarantee approved by the city attorney.
- F. The fees may not be prepaid unless specified otherwise in a fee payment agreement or development agreement approved by the city council.
- G. Notwithstanding the above, the city may collect subsequent increases in impact fees or new impact fees, unless the development project is exempt from fee increases under the terms of a fee payment agreement approved by council, a development agreement approved by council or California law.
- H. This Section 15.64.040 shall become inoperative as of July 1, 2010 and shall remain inoperative through June 30, 2013, unless prior to July 1, 2013, the Lodi City Council enacts an ordinance deleting or extending the dates of inoperability or repealing this Section 15.64.040 in its entirety.

15.64.040 Payment of Fees [Effective July 1, 2010 through June 30, 2013].

- A. The property owner of any development project causing impacts to public facilities shall pay the appropriate development mitigation fee as provided in this chapter. The amount shall be calculated in accordance with this chapter and the program fee as established by Council resolution.
- B. When such payment is required by this Chapter, no Certificate of Occupancy or site development permit shall be approved for property within the City unless the development impact mitigation fees for that property are paid or guaranteed as provided in this chapter.
- C. The fees shall be paid with the approval of a Certificate of Occupancy or Site Development Permit, except as provided in subsection (E) or (F) of this section.
- D. Where the development project includes the installation of public improvements, the payment of fees established by this Chapter may be deferred and shall be collected prior to acceptance of the public improvements by the City Council. Payment of all deferred fees shall be guaranteed by the owner prior to deferral. Such guarantee shall consist of a surety bond, instrument of credit, cash, or other guarantee approved by the City Attorney.
- E. The fees may not be prepaid unless specified otherwise in a fee payment agreement or development agreement approved by the City Council.
- F. Notwithstanding the above, City may collect subsequent increases in impact fees or new impact fees, unless the development project is exempt from fee increases under the terms of a Fee Payment Agreement approved by Council, a Development Agreement approved by Council or California law.
- G. This Section 15.64.040 shall become operative as of July 1, 2010 and shall remain in effect until June 30, 2013, at which date it shall be repealed in its entirety, unless otherwise extended by an enacted ordinance of the Lodi City Council.

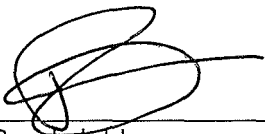
Section 2. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.


Section 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Attest:

Approved this 16th day of June, 2010.



Randi Johl
City Clerk



Phil Katzakian
Mayor

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1832 was introduced at a regular meeting of the City Council of the City of Lodi held June 2, 2010, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held June 16, 2010, by the following vote:

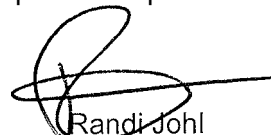
AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Johnson, and Mounce

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Mayor Katzakian


ABSTAIN: COUNCIL MEMBERS – None

I further certify that Ordinance No. 1832 was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.



Randi Johl
City Clerk

Approved as to Form:
D. STEPHEN SCHWABAUER
City Attorney

By 
Janice D. Magdich
Deputy City Attorney